C2

placing in a pulmonic passageway of the patient a flow control device which has a resilient seal secured to a valve body;

expanding the resilient seal to seal with a wall of the pulmonic passageway so as to prevent fluid flow between the resilient seal and the wall of the pulmonic passageway.

Please add the following new claim:

C3

52. (New) A method as in claim 25, wherein the flow control device additionally comprises a frame coupled to the valve body.

REMARKS

Pursuant to this Amendment, Applicant has amended claim 25 and added new claim 52. Claim 25, as amended with changes included, is listed above, and a version of claim 25, with markings to indicate the amendments, is attached hereto as Appendix A, in accordance with 37 C.F.R. § 1.121(c)(1). Applicant respectfully requests reconsideration of the application in light of the foregoing amendments and the following comments.

Summary of the Office Action

In the office action mailed February 13, 2003, the Examiner objected to Figure 1, stating that the lead line for element "22" is not pointing to the valve support. In addition, the Examiner objected to the disclosure because the first paragraph of the disclosure does not include a reference to the priority application. The Examiner rejected claims 25-27 and 31-33 under 35 U.S.C. §112, second paragraph. Claims 25-27 and 31-33 were also rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,411,552 to Andersen.

Objection to the Drawings and the Specification

The Examiner objected to Figure 1, stating that the lead line for element "22" is not pointing to the valve support. Applicant has submitted herewith a proposed drawing correction of Figure 1 with revisions to Figure 1 shown in red ink.

The Examiner also objected to the specification as not reciting that the instant application is a continuation of the '218 application. Applicant has amended the specification to indicate that the instant application is a continuation of co-pending U.S. Patent Application Serial No. 09/397,218. Applicant respectfully submits that the objections to the drawings and the specification have been overcome.

Rejection Under 35 U.S.C. §112

The Examiner rejected claims 25-27 and 31-33 under 35 U.S.C. §112, second paragraph, stating that claim 25 is an improper omnibus type claim. Applicant has amended claim 25 to replace the term "pulmonic placement" with "placing in a pulmonic passageway". Applicant respectfully submits that the amendment to claim 25 overcomes the rejection under Section 112.

Rejection Under 35 U.S.C. §102(b)

Claims 25-27 and 31-33 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,411,552 to Andersen. However, Applicant respectfully submits that the claims recite subject matter that is nether taught nor suggested by Andersen. For example, Claim 25 recites the steps of placing in a pulmonic passageway a flow control device which has a resilient seal secured to a valve body and expanding the resilient seal to seal with a wall of the pulmonic

passageway so as to prevent fluid flow between the resilient seal and the wall of the pulmonic passageway.

Andersen fails to teach or suggest a flow control device which has a resilient seal secured to a valve body. Andersen describes a valve prosthesis for implantation in the body. The valve prosthesis includes a tubular means 24 having a closed cylindrical surface. The Examiner asserted in paragraph 8 of the office action that the tubular means 24 having a closed cylinder surface (see column 7, lines 17-23) of Andersen corresponds to the "resilient seal" recited in claim 25 of the instant application. However, Andersen makes no mention of the cylinder surface of the tubular means being a seal that seals with a wall of the pulmonic passageway so as to prevent fluid flow between the resilient seal and the wall of the pulmonic passageway, as recited in claim 1. Rather, the tubular means is simply a securing member that abuts the wall of the body channel in order to secure the device in place. Applicant notes that the tubular means of Anderson can act as a securing member without sealing against the wall so as to prevent prevent fluid flow between the securing member and the wall.

Indeed, at column 4, lines 3-8, Andersen describes the function of the cylinder surface as "securing of the valve prosthesis in the channel". The purpose of the cylindrical tubular means is to provide a "great surface which abuts the inner wall of the channel" and thereby secure the valve prosthesis in the channel. This does not require that the cylinder surface expand and seal against the channel so as to prevent fluid flow between the cylinder surface and the channel wall, but only that there is sufficient contact between the cylinder surface and the channel wall to secure the valve prosthesis in place. Andersen

simply fails to teach, or even suggest, that the cylinder surface does anything other than abut the channel wall in order to secure the valve prosthesis in place.

Moreover, Andersen fails to teach that the cylinder surface is resilient. Andersen simply states that the cylinder surface is closed by a "suitable material" and makes no mention of the material being resilient. In view of the foregoing, it is respectfully submitted that the rejection under 35 U.S.C. 102(b) should be withdrawn.

If the Examiner has any questions regarding the foregoing, she is cordially invited to contact the undersigned so that any such matters may be promptly resolved.

Respectfully submitted,
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APPENDIX A

(claims with markings to indicate amendments)

25. (Amended) A method of treating a patient, comprising:

placing in a pulmonic passageway of the patient [placement of] a flow control device which has a resilient seal secured to a valve body;

expanding the resilient seal to seal with a wall of the pulmonic passageway so as to prevent fluid flow between the resilient seal and the wall of the pulmonic passageway.

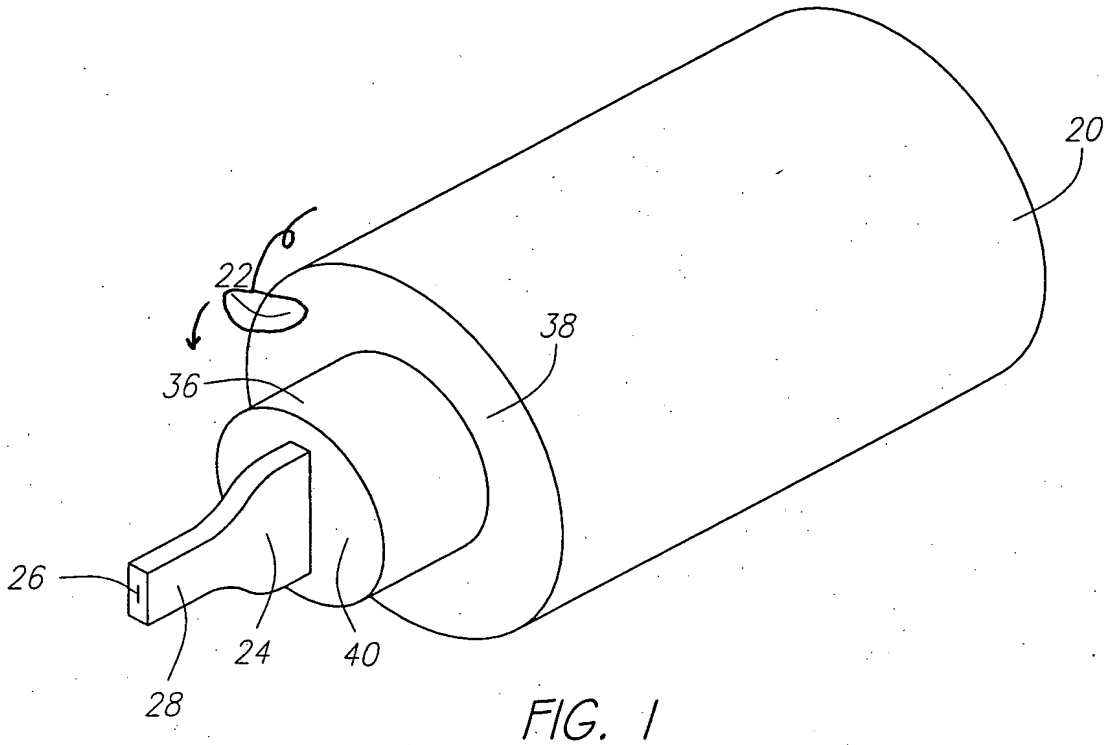

FIG. 1

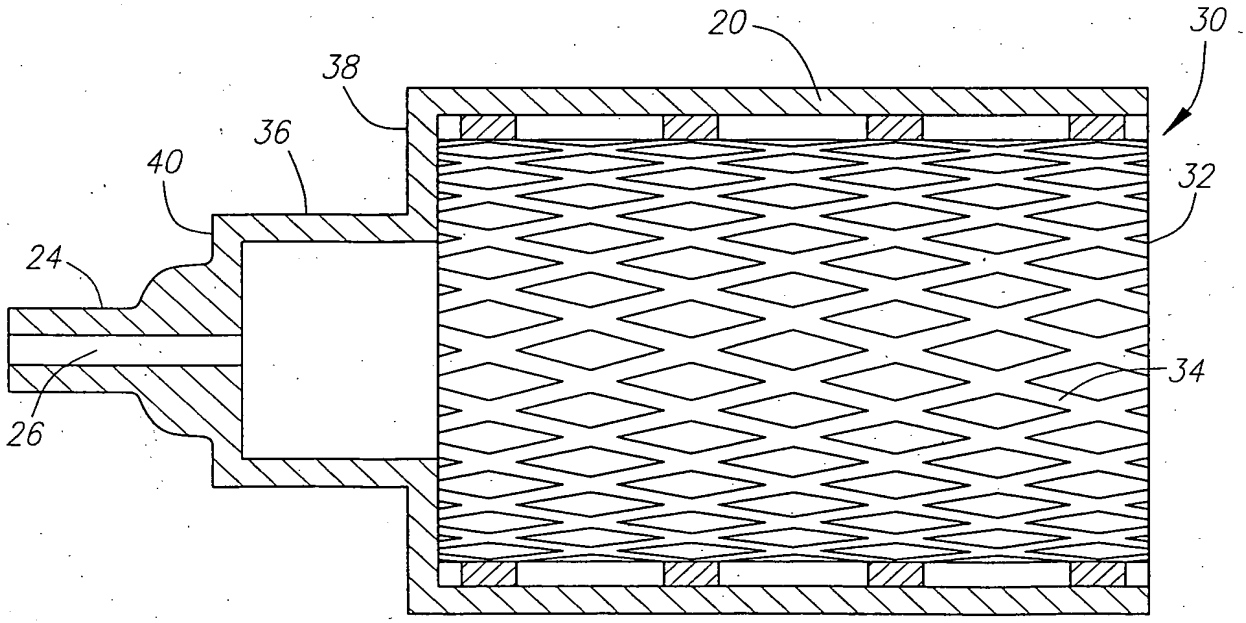

FIG. 2

Approved
EC 7/9/03